



Senate Fiscal Agency  
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## BILL ANALYSIS



Telephone: (517) 373-5383  
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Senate Bill 795 (Substitute S-3 as reported)  
Senate Bill 796 (Substitute S-1 as reported)  
Senate Bill 797 (Substitute S-1 as reported)  
Senate Bill 799 (Substitute S-1 as reported)  
Senate Bill 800 (Substitute S-1 as reported)

Sponsor: Senator Mike Kowall (S.B. 795)  
Senator Arlan Meekhof (S.B. 796)  
Senator Phil Pavlov (S.B. 797)  
Senator Tom Casperson (S.B. 799)  
Senator Howard Walker (S.B. 800)

Committee: Natural Resources, Environment and Great Lakes

**CONTENT**

Senate Bill 795 (S-3) would amend Part 413 (Transgenic and Nonnative Organisms) of the Natural Resources and Environmental Protection Act (NREPA) to provide that a vehicle, equipment, or other property used in a criminal violation of Part 413 or a permit issued under it involving a prohibited aquatic species would be subject to seizure and forfeiture.

(Subject to specific exceptions, Part 413 prohibits a person from knowingly possessing or introducing a live organism that is a prohibited species. The definition of "prohibited species" includes certain aquatic plant, bird, crustacean, fish, insect, mammal, and mollusk species. Additionally, the Natural Resources Commission and the Agriculture and Rural Development Commission may by order add to or delete from the list of prohibited species. The applicable Commission must list a species as prohibited if it makes certain determinations specified in Part 413.)

Senate Bill 796 (S-1) would amend the sentencing guidelines in the Code of Criminal Procedure to reflect the changes proposed by Senate Bill 800 (S-1) regarding the felony penalties for violations involving prohibited aquatic species. Under the sentencing guidelines, possession of a prohibited species and introduction of a prohibited species of known identity are class G felonies against property with a statutory maximum of two years' imprisonment. Under the bill, these provisions would apply in the case of a nonaquatic species. Comparable violations involving an aquatic species would be class F property felonies with a statutory maximum of three years' imprisonment.

Senate Bill 797 (S-1) would amend the Revised Judicature Act to include a criminal violation of Part 413 of NREPA among the crimes subject to the Act's provisions regarding the seizure and forfeiture of property.

Senate Bill 799 (S-1) would amend the Administrative Procedures Act to provide that a requirement that a person whose license is to be suspended or revoked be given an opportunity to show compliance with all lawful requirements for retention of the license, would not apply with regard to a commercial or sport fishing license or permit suspended or revoked under Senate Bill 800 (S-1).

Senate Bill 800 (S-1) would amend Parts 413 (Transgenic and Nonnative Organisms), 473 (Commercial Fishing), and 487 (Sport Fishing) of NREPA to do the following:

- Increase the penalties (described below) for the illegal possession or introduction of a prohibited aquatic species, if the offense were committed knowingly.
- Require a court to order a one-year suspension of a person's license or permit issued under Part 473 or Part 487, if the person committed a criminal violation of Part 413 or sold a prohibited or restricted aquatic species.
- Require the court to order permanent revocation of the license or permit, for a second violation.
- Prohibit the Department of Natural Resources (DNR) from issuing a license or permit to a person whose license or permit was suspended or revoked for the period provided in the court order, if the DNR maintained a database of suspensions or revocations.
- Establish conditions for the reinstatement of a suspended license or permit, including payment to the DNR of a \$125 reinstatement fee.

Possession. A person who knowingly violates the prohibition against possession of a prohibited species or who willfully or in a grossly negligent manner violates a condition of a permit issued under Part 413 is guilty of a felony and may be imprisoned for a maximum of two years and must be fined at least \$2,000 but not more than \$20,000.

Under the bill, this penalty would apply to a violation involving a prohibited species other than an aquatic species. For a violation involving a prohibited aquatic species, the person could be imprisoned for a maximum of three years and would have to be fined at least \$2,000 but not more than \$100,000.

Introduction. If a person violates the prohibition against introduction of a prohibited species, and knows or should know the identity of the species, the person is guilty of a felony and may be imprisoned for a maximum of two years and must be fined at least \$2,000 but not more than \$20,000. Under the bill, this penalty would apply to a violation involving a prohibited species other than an aquatic species. For a violation involving an aquatic species, the person could be imprisoned for a maximum of three years and would have to be fined at least \$2,000 but not more than \$100,000.

The bill would refer to a person who had actual or constructive knowledge of a species' identity, rather than a person who knew or should know the species' identity.

All of the bills are tie-barred to each other and would take effect 90 days after they were enacted.

MCL 324.41305 (S.B. 795)  
777.13e (S.B. 796)  
600.4701 (S.B. 797)  
24.292 (S.B. 799)  
324.41309 et al. (S.B. 800)

Legislative Analyst: Julie Cassidy

### **FISCAL IMPACT**

Senate Bill 795 (S-3) would have no fiscal impact on State or local government.

Senate Bill 796 (S-1) would revise the Code of Criminal Procedure to reflect the changes made to the felony penalties in Senate Bill 800 (S-1).

Senate Bills 797 (S-1) and 799 (S-1) would have no fiscal impact on State or local government.

Senate Bill 800 (S-1) would have a minimal fiscal impact on the Department of Natural Resources and no fiscal impact on local units of government. To the extent that individuals holding hunting or fishing licenses were found guilty of violating the provisions of Part 413 that would be subject to license sanctions under the bill, the DNR could lose revenue that it would otherwise receive from future license sales or renewals. However, the DNR would receive revenue from the \$125 license reinstatement fee, which would likely be a greater amount than what the Department would lose from lost sales. While the number of violations that would be covered under the bill is not known at this time, it is not expected that the number would be very large, so the fiscal impact of the bill on the DNR would be minimal.

The bill also would create increased felony penalties, which could potentially increase the cost to State government for those convicted of the felony offense. Any added imprisonment time would have an average cost of \$35,000 per prisoner per year. There would be no fiscal impact on local government from the increased penalty, except a potential increase in fine revenue, which would benefit public libraries.

Date Completed: 5-28-14

Fiscal Analyst: John Maxwell  
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.